

1 HONORABLE BARBARA J. ROTHSTEIN  
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8 **UNITED STATES DISTRICT COURT**  
9 **WESTERN DISTRICT OF WASHINGTON**  
10 **AT SEATTLE**

11 WSOU INVESTMENTS, LLC d/b/a BRAZOS  
12 LICENSING AND DEVELOPMENT,

13 Plaintiff,

14 v.

15 F5 NETWORKS, INC.,

16 Defendant.

17 No. 2:20-cv-01878-BJR  
18 No. 2:21-cv-00124-BJR  
19 No. 2:21-cv-00125-BJR  
20 No. 2:21-cv-00126-BJR

21 **DECLARATION OF CHARLES A. NAGGAR IN SUPPORT OF PLAINTIFF'S**  
22 **MOTION FOR LEAVE TO AMEND ITS INFRINGEMENT CONTENTIONS**

23 I, Charles A. Naggar, declare as follows:

24 1. I am an Associate with the law firm of Kasowitz Benson Torres LLP. I am one of  
25 the attorneys responsible for the representation of Plaintiff WSOU Investments, LLC d/b/a Brazos  
Licensing and Development ("WSOU") in the above-captioned litigations against Defendant F5  
Networks, Inc. ("F5"), and make this declaration in support of WSOU's Motion for Leave to  
Amend Its Infringement Contentions.

26 2. If called to testify under oath in court, I could and would testify competently to the  
27 facts stated herein.

NAGGAR DECLARATION IN SUPPORT OF - 1  
PLAINTIFF'S MOTION FOR LEAVE TO AMEND ITS  
INFRINGEMENT CONTENTIONS (CASE NOS. 20-CV-01878-BJR,  
2:21-CV-00124-BJR, 2:21-CV-00125-BJR, 2:21-CV-00126-BJR)

CORR CRONIN LLP  
1001 Fourth Avenue, Suite 3900  
Seattle, Washington 98154-1051  
Tel (206) 625-8600  
Fax (206) 625-0900

1       3. On January 18, 2022, I sent an e-mail with the subject line “WSOU v. F5: Plaintiff’s  
 2 Amended Infringement Contentions” to counsel for F5. In that e-mail, I provided a link from  
 3 which F5’s counsel could download WSOU’s amended infringement contentions for U.S. Patent  
 4 Nos. 9,584,330 (“the ’330 patent”), 8,248,940 (“the ’940 patent”), and 7,548,945 (“the ’945  
 5 patent”), including clean copies and versions showing track-changes over WSOU’s corresponding  
 6 April 2021 Preliminary Infringement Contentions (*see infra ¶¶ 14-16*). I also stated in that email:  
 7 “WSOU also intends to serve amended infringement contentions for the ‘884 patent in the coming  
 8 days.” A copy of this e-mail is provided herewith. *See infra ¶ 18.*

10     4. The next day, January 19, 2022, I sent a follow-up e-mail with the subject line “RE:  
 11 WSOU v. F5: Plaintiff’s Amended Infringement Contentions” to counsel for F5. In that e-mail, I  
 12 provided a link from which F5’s counsel could download WSOU’s amended infringement  
 13 contentions for U.S. Patent No. 7,953,884 (“the ’884 patent”), including clean copies and redlined  
 14 versions showing track-changes over WSOU’s corresponding April 2021 Preliminary  
 15 Infringement Contentions (*see infra ¶ 13*). A copy of this e-mail is provided herewith. *See infra*  
 16 ¶ 18.

18     5. Attached hereto as **Exhibit A** is a true and correct copy of Plaintiff’s Amended  
 19 Disclosure of Asserted Claims and Infringement Contentions in Case No. 2:20-CV-01878-BJR  
 20 (W.D. Wa.), dated January 19, 2022, together with Exhibit 1 thereto, titled “Infringement Claim  
 21 Chart of U.S. Patent No. 7,953,884.” These materials were provided to counsel for F5 via the link  
 22 in my January 19, 2022 e-mail. *See supra ¶ 4. [FILED UNDER SEAL]*

24     6. Attached hereto as **Exhibit B** is a true and correct copy of Plaintiff’s Amended  
 25 Disclosure of Asserted Claims and Infringement Contentions in Case No. 2:21-CV-00124-BJR

NAGGAR DECLARATION IN SUPPORT OF - 2  
 PLAINTIFF’S MOTION FOR LEAVE TO AMEND ITS  
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1 (W.D. Wa.), dated January 18, 2022, together with Exhibit 1 thereto, titled “Infringement Claim  
 2 Chart of U.S. Patent No. 9,584,330.” These materials were provided to counsel for F5 via the link  
 3 in my January 18, 2022 e-mail. *See supra ¶ 3. [FILED UNDER SEAL]*

4       7. Attached hereto as **Exhibit C** is a true and correct copy of Plaintiff’s Amended  
 5 Disclosure of Asserted Claims and Infringement Contentions in Case No. 2:21-CV-00125-BJR  
 6 (W.D. Wa.), dated January 18, 2022, together with Exhibit 1 thereto, titled “Infringement Claim  
 7 Chart of U.S. Patent No. 8,248,940.” These materials were provided to counsel for F5 via the link  
 8 in my January 18, 2022 e-mail. *See supra ¶ 3. [FILED UNDER SEAL]*

9       8. Attached hereto as **Exhibit D** is a true and correct copy of Plaintiff’s Amended  
 10 Disclosure of Asserted Claims and Infringement Contentions in Case No. 2:21-CV-00126-BJR  
 11 (W.D. Wa.), dated January 18, 2022, together with Exhibit 1 thereto, titled “Infringement Claim  
 12 Chart of U.S. Patent No. 7,548,945.” These materials were provided to counsel for F5 via the link  
 13 in my January 18, 2022 e-mail. *See supra ¶ 3. [FILED UNDER SEAL]*

14       9. Attached hereto as **Exhibit E** is a true and correct copy of the redlined versions of  
 15 Plaintiff’s Amended Disclosure of Asserted Claims and Infringement Contentions in Case No.  
 16 2:20-CV-01878-BJR (W.D. Wa.), dated January 19, 2022, together with Exhibit 1 thereto, titled  
 17 “Infringement Claim Chart of U.S. Patent No. 7,953,884,” which were provided to counsel for F5  
 18 via the link in my January 19, 2022 e-mail. *See supra ¶ 4. [FILED UNDER SEAL]*

19       10. Attached hereto as **Exhibit F** is a true and correct copy of the redlined versions of  
 20 Plaintiff’s Amended Disclosure of Asserted Claims and Infringement Contentions in Case No.  
 21 2:21-CV-00124-BJR (W.D. Wa.), dated January 18, 2022, together with Exhibit 1 thereto, titled  
 22

NAGGAR DECLARATION IN SUPPORT OF - 3  
 PLAINTIFF’S MOTION FOR LEAVE TO AMEND ITS  
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1 “Infringement Claim Chart of U.S. Patent No. 9,584,330,” which were provided to counsel for F5  
 2 via the link in my January 18, 2022 e-mail. *See supra ¶ 3. [FILED UNDER SEAL]*

3       11. Attached hereto as **Exhibit G** is a true and correct copy of the redlined versions of  
 4 Plaintiff’s Amended Disclosure of Asserted Claims and Infringement Contentions in Case No.  
 5 2:21-CV-00125-BJR (W.D. Wa.), dated January 18, 2022, together with Exhibit 1 thereto, titled  
 6 “Infringement Claim Chart of U.S. Patent No. 8,248,940,” which were provided to counsel for F5  
 7 via the link in my January 18, 2022 e-mail. *See supra ¶ 3. [FILED UNDER SEAL]*

9       12. Attached hereto as **Exhibit H** is a true and correct copy of the redlined versions of  
 10 Plaintiff’s Amended Disclosure of Asserted Claims and Infringement Contentions in Case No.  
 11 2:21-CV-00126-BJR (W.D. Wa.), dated January 18, 2022, together with Exhibit 1 thereto, titled  
 12 “Infringement Claim Chart of U.S. Patent No. 7,548,945,” which were provided to counsel for F5  
 13 via the link in my January 18, 2022 e-mail. *See supra ¶ 3. [FILED UNDER SEAL]*

15       13. Attached hereto as **Exhibit I** is a true and correct copy of Plaintiff’s Disclosure of  
 16 Asserted Claims and Infringement Contentions in Case No. 2:20-CV-01878-BJR (W.D. Wa.),  
 17 dated April 8, 2021, together with Exhibit 1 thereto, titled “Infringement Claim Chart of U.S.  
 18 Patent No. 7,953,884,” which WSOU served on F5 on April 8, 2021. These materials are the  
 19 Preliminary Infringement Contentions for U.S. Patent No. 7,953,884 that I referred to above. *See*  
 20 *supra ¶ 3.*

22       14. Attached hereto as **Exhibit J** is a true and correct copy of Plaintiff’s Corrected  
 23 Disclosure of Asserted Claims and Infringement Contentions in Case No. 2:21-CV-00124-BJR  
 24 (W.D. Wa.), dated April 9, 2021, together with Exhibit 1 thereto, titled “Infringement Claim Chart  
 25 of U.S. Patent No. 9,584,330,” which WSOU served on F5 on April 9, 2021. These materials are

NAGGAR DECLARATION IN SUPPORT OF - 4  
 PLAINTIFF’S MOTION FOR LEAVE TO AMEND ITS  
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1 the Preliminary Infringement Contentions for U.S. Patent No. 9,584,330 that I referred to above.

2 *See supra ¶ 4.*

3       15. Attached hereto as **Exhibit K** is a true and correct copy of Plaintiff's Disclosure  
 4 of Asserted Claims and Infringement Contentions in Case No. 2:21-CV-00125-BJR (W.D. Wa.),  
 5 dated April 8, 2021, together with Exhibit 1 thereto, titled "Infringement Claim Chart of U.S.  
 6 Patent No. 8,248,940," which WSOU served on F5 on April 8, 2021. These materials are the  
 7 Preliminary Infringement Contentions for U.S. Patent No. 8,248,940 that I referred to above. *See*  
 8 *supra ¶ 3.*

9       16. Attached hereto as **Exhibit L** is a true and correct copy of Plaintiff's Disclosure of  
 10 Asserted Claims and Infringement Contentions in Case No. 2:21-CV-00126-BJR (W.D. Wa.),  
 11 dated January 18, 2022, together with Exhibit 1 thereto, titled "Infringement Claim Chart of U.S.  
 12 Patent No. 7,548,945." These materials are the Preliminary Infringement Contentions for U.S.  
 13 Patent No. 7,548,945 that I referred to above. *See supra ¶ 3.*

14       17. Attached hereto as **Exhibit M** is a true and correct copy of an e-mail chain with  
 15 the subject line "RE: WSOU v. F5 - Motion for Leave to Amend Invalidity Contentions"  
 16 comprising e-mails dated December 13-16, 2021 between counsel for WSOU and counsel for F5  
 17 in connection with the above-captioned actions.

18       18. Attached hereto as **Exhibit N** is a true and correct copy of an e-mail chain with the  
 19 subject line "RE: WSOU v. F5: Plaintiff's Amended Infringement Contentions" comprising e-  
 20 mails dated January 18, 2022 – February 10, 2022 between counsel for WSOU and counsel for  
 21 F5 in connection with the above-captioned actions. This e-mail chain includes the two e-mails  
 22 that I described above. *See supra ¶¶ 3, 4.*

NAGGAR DECLARATION IN SUPPORT OF - 5  
 PLAINTIFF'S MOTION FOR LEAVE TO AMEND ITS  
 INFRINGEMENT CONTENTIONS (CASE NOS. 20-CV-01878-BJR,  
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1       19. Attached hereto as **Exhibit O** is a true and correct copy of an e-mail chain with the  
 2 subject line “RE: [SERVICE] WSOU v. F5 Networks: Deposition Notice” comprising e-mails  
 3 dated October 18, 2021 – December 14, 2021 between counsel for WSOU and counsel for F5 in  
 4 connection with the above-captioned actions.

5       20. Attached hereto as **Exhibit P** is a true and correct copy of excerpts from the  
 6 transcript of the February 1, 2022 deposition of Saumitra Prabhudesai in the above-captioned  
 7 actions.

9       21. Attached hereto as **Exhibit Q** is a true and correct copy of Defendant F5 Networks,  
 10 Inc.’s Non-Infringement Contentions, dated June 21, 2021, in connection with the above-  
 11 captioned actions, including Exhibit E thereto, a document titled “F5’s Initial Non-Infringement  
 12 Contentions Regarding U.S. Patent No. 7,548,945 for the BIG-IP Domain Name System (DNS),  
 13 F5 VIPRION Platform, and F5 BIG-IP iSeries Platform.” Exhibit R does not include Exhibits A-  
 14 D of Defendant F5 Networks, Inc.’s Non-Infringement Contentions.

16       22. Attached hereto as **Exhibit R** is a true and correct copy of an excerpt of an e-mail  
 17 chain that includes an e-mail dated November 17, 2021 from Angela Tarasi, counsel of record for  
 18 F5, to counsel for WSOU with the subject line “WSOU v. F5 - Status Report,” together with the  
 19 e-mail’s attachment (filename: “F5 - Draft Portion Joint Status Report.docx”).

21       23. Attached hereto as **Exhibit S** is a true and correct copy of an excerpt from an e-  
 22 mail chain with the subject line “RE: WSOU v. F5: F5 Technical Document Deficiency”  
 23 comprising e-mails dated January 12-30, 2022 between counsel for WSOU and counsel for F5 in  
 24 connection with the above-captioned actions. The attached excerpt includes an e-mail dated  
 25 January 30, 2022 from Angela Tarasi, counsel of record for F5.

NAGGAR DECLARATION IN SUPPORT OF - 6  
 PLAINTIFF’S MOTION FOR LEAVE TO AMEND ITS  
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 Fax (206) 625-0900

1       24. Attached hereto as **Exhibit T** is a true and correct copy of a Verbatim Report of  
 2 Proceedings before the Honorable Barbara J. Rothstein, which provides a transcript of the  
 3 September 30, 2021 telephone motion hearing in the above-captioned actions.

4       25. Attached hereto as **Exhibit U** is a true and correct copy of excerpts from the  
 5 transcript of the December 1, 2021 deposition of Jason Shriver in the above-captioned actions.

6       26. Attached hereto as **Exhibit V** is a true and correct copy of a document that was  
 7 provided to counsel for WSOU as an attachment (filename: “AEO\_Ex 1 Am Inf Cont (884 Pat)  
 8 REDLINE - KS MARK UP.pdf”) to a February 10, 2022 e-mail from Ryan Schmid, counsel of  
 9 record for F5, that represented that the attachment is a highlighted version of the claim chart from  
 10 the redlined version of Plaintiff’s proposed amended infringement contentions for U.S. Patent No.  
 11 7,953,884 (*see supra ¶ 9*), wherein the color of the highlighting should be interpreted as follows:  
 12 “The highlighting follows the same principles set forth previously. Green indicates revisions F5  
 13 can agree to. Red indicates revisions that F5 cannot presently agree to. Blue indicates revisions  
 14 that require clarification from WSOU, as it is unclear whether they are directed to theories  
 15 disclosed in WSOU’s original contentions or whether the amendments are directed to new theories  
 16 and/or new ‘Accused Instrumentalities.’” *See Exhibit N* hereto at 2; *supra ¶ 18* (describing  
 17 *Exhibit N*); *infra ¶ 28* (describing said “principles set forth previously”). **[FILED UNDER**  
 18 **SEAL]**

21       27. Attached hereto as **Exhibit W** is a true and correct copy of a document that was  
 22 provided to counsel for WSOU as an attachment (filename: “AEO\_Ex 1 Am Inf Cont (330 Pat)  
 23 REDLINE - KS MARK UP.pdf”) to a February 10, 2022 e-mail from Ryan Schmid, counsel of  
 24 record for F5, that represented that the attachment is a highlighted version of the claim chart from

NAGGAR DECLARATION IN SUPPORT OF - 7  
 PLAINTIFF’S MOTION FOR LEAVE TO AMEND ITS  
 INFRINGEMENT CONTENTIONS (CASE NOS. 20-CV-01878-BJR,  
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 Fax (206) 625-0900

1 the redlined version of Plaintiff's proposed amended infringement contentions for U.S. Patent No.  
 2 9,584,330 (*see supra* ¶ 10), wherein the color of the highlighting should be interpreted as stated  
 3 above. *See supra* ¶ 25. [FILED UNDER SEAL]

4       28. Attached hereto as **Exhibit X** is a true and correct copy of a document that was  
 5 provided to counsel for WSOU as an attachment (filename: "AEO\_Ex 1 Am Inf Cont (940 Pat)  
 6 REDLINE - KS MARK UP.pdf") to a February 10, 2022 e-mail from Ryan Schmid, counsel of  
 7 record for F5, that represented that the attachment is a highlighted version of the claim chart from  
 8 the redlined version of Plaintiff's proposed amended infringement contentions for U.S. Patent No.  
 9 8,248,940 (*see supra* ¶ 11), wherein the color of the highlighting should be interpreted as stated  
 10 above. *See supra* ¶ 25. [FILED UNDER SEAL]

11       29. Attached hereto as **Exhibit Y** is a true and correct copy of a document that was  
 12 provided to counsel for WSOU as an attachment (filename: "AEO\_Ex 1 Am Inf Cont (945 Pat)  
 13 REDLINE - KS MARK UP.pdf") to a February 2, 2022 e-mail from Ryan Schmid, counsel of  
 14 record for F5, that represented that the attachment is a highlighted version of the claim chart from  
 15 the redlined version of Plaintiff's proposed amended infringement contentions for U.S. Patent No.  
 16 7,548,945 (*see supra* ¶ 12), wherein the color of the highlighting should be interpreted as follows:

- 17           • With respect to amendments highlighted in green: Either "F5 can agree to  
 18           amendments based on F5's confidential materials produced during discovery  
 19           that support WSOU's previously disclosed infringement theories on the  
 20           accused products for the '945 patent, specifically DNS, BIG-IQ, vCMP  
 21           software and VIPRION and iSeries hardware"; or "F5 can also agree to  
 22           amendments based on F5's public materials produced during discovery that

1 support WSOU's previously disclosed infringement theories on the accused  
2 products for the '945 patent, specifically DNS, BIG-IQ, vCMP software and  
3 VIPRION and iSeries hardware."

- 4
- 5 • With respect to amendments highlighted in red: "F5 cannot presently agree to  
6 amendments that advocate new infringement theories and/or new 'Accused  
7 Instrumentalities.'"
  - 8 • With respect to amendments highlighted in blue: "For a number of  
9 amendments, it is unclear whether they are directed to theories disclosed in  
10 WSOU's original contentions or whether the amendments are directed to new  
11 theories and/or new 'Accused Instrumentalities.'"

12 See Exhibit N hereto at 7; *supra* ¶ 18. [FILED UNDER SEAL]

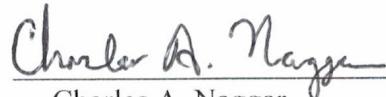
13

14 I hereby declare under penalty of perjury under the laws of the United States of America  
15 that the foregoing is true and correct to the best of my knowledge, information, and belief, formed  
16 after reasonable inquiry under the circumstances.

17

18 Executed on the 10<sup>th</sup> day of February, 2022, in New York, New York.

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Charles A. Naggar

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NAGGAR DECLARATION IN SUPPORT OF - 9  
PLAINTIFF'S MOTION FOR LEAVE TO AMEND ITS  
INFRINGEMENT CONTENTIONS (CASE NOS. 20-CV-01878-BJR,  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 10, 2022, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

s/ Christy A. Nelson  
Christy A. Nelson

NAGGAR DECLARATION IN SUPPORT OF - 10  
PLAINTIFF'S MOTION FOR LEAVE TO AMEND ITS  
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